

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

**RODNEY BUNCH
ADC #117083**

PETITIONER

VS. CASE NO.: 5:12CV00360 SWW/BD

**RAY HOBBS, Director,
Arkansas Department of Correction**

RESPONDENT

RECOMMENDED DISPOSITION

I. Procedure for Filing Objections

The following Recommended Disposition (“Recommendation”) has been sent to United States District Court Judge Susan Webber Wright. Mr. Bunch – or any party – may file written objections to this Recommendation.

Objections must be specific and must include the factual or legal basis for the objection. An objection to a factual finding must identify the finding of fact believed to be wrong and describe the evidence that supports that belief.

An original and one copy of objections must be received in the office of the United States District Court Clerk within fourteen (14) days of this Recommendation. A copy will be furnished to the opposing party.

If no objections are filed, Judge Wright can adopt this Recommendation without independently reviewing all of the evidence in the record. By not objecting, you may also waive any right to appeal questions of fact.

Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

II. Discussion

Petitioner Rodney Bunch, an Arkansas Department of Correction inmate, filed this pro se petition for writ of habeas corpus under 28 U.S.C. § 2254. (docket entry #1) For reasons that follow, relief should be DENIED and the petition DISMISSED, without prejudice.

Upon the filing of a habeas petition, a federal court is required to examine the petition together with any exhibits and dismiss the petition if the petitioner is not entitled to relief. Rule 4 of the Rules Governing Section 2254 Cases. This Court may entertain a habeas corpus petition from a State inmate only if he is being held in custody in violation of the United States Constitution or federal laws or treaties. 28 U.S.C. § 2254(a).

Mr. Bunch’s petition does not state grounds for federal habeas corpus relief; nor does it set out facts to support habeas corpus relief, as required by Rule 2(c) of the Rules Governing Section 2254 Cases. Instead, Mr. Bunch asks the Court to review a state case record and verify that the Arkansas Supreme Court complied with procedural rules.

Federal courts, however, are not arbitrators of state law or state procedure. *Sweet v. Delo*, 125 F.3d 1144, 1151 (8th Cir. 1997). So whether or not a state court complied with state rules is irrelevant to a federal habeas petition.

In addition, the case Mr. Bunch asks this Court to review is over ten years old.

Bunch v. State, 344 Ark. 730, 43 S.W.3d 132 (Ark. 2001). There is a one-year limitations period for filing federal habeas corpus petitions. 28 U.S.C. § 2244(d)(1). So even if Mr. Bunch had stated grounds for relief, his petition was filed well past the one-year period.

III. Certificate of Appealability

When entering a final order adverse to a petitioner, the Court must issue or deny a certificate of appealability. Rule 11 of the Rules Governing Section 2254 Cases in the United States District Court. The Court can issue a certificate of appealability only if Mr. Bunch has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(1)-(2). In this case, Mr. Bunch has not provided a basis for issuing a certificate of appealability. Accordingly, a certificate of appealability should be denied.

IV. Conclusion

Mr. Bunch's petition does not state a ground for federal habeas corpus relief. For that reason, the Court recommends that the petition for writ of habeas corpus be DENIED, without prejudice, and that Mr. Bunch not be afforded a certificate of appealability.

DATED this 18th day of September, 2012.



UNITED STATES MAGISTRATE JUDGE